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HOUSE OF REPRESENTATIVES

{ REPORT
No. 97-828

COMPLETED

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MODIFICATION OF THE NORTH AMERICAN
CONVENTION TAX RULES

SEPTEMBER 16, 1982.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. ROSTENKOWSKI, from the Committee on Ways and Means,
submitted the following

REPORT

[To accompany H.R. 3191]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3191) to amend the Internal Revenue Code of 1954 to exempt conventions, et cetera, held on cruise ships documented under the laws of the United States from certain rules relating to foreign conventions, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) paragraph (2) of section 274(h) of the Internal Revenue Code of 1954 (relating to attendance at conventions, etc.) is amended to read as follows:

"(2) CONVENTIONS ON CRUISE SHIPS.—In the case of any individual who attends a convention, seminar, or other meeting which is held on any cruise ship, no deduction shall be allowed under section 162 or 212 for expenses allocable to such meeting unless—

"(A) the cruise ship is a vessel documented under the laws of the United States,

"(B) all ports of call of the cruise are inside the North American area, and

"(C) the taxpayer establishes (by written statements signed by the taxpayer and by an officer of the sponsoring organization or group, and by such other methods as may be prescribed by regulations) that the meeting is directly related to the active conduct of his trade or business or to an activity described in section 212.

Paragraph (1) shall not apply to any meeting with respect to which the requirements of the preceding sentence are met."

(b) The amendment made by subsection (a) shall apply to conventions, seminars and meetings beginning after December 31, 1982.

I. SUMMARY

Under present law, no deduction is allowed for expenses of attending a convention, seminar, or similar meeting on a cruise ship (Code section 274(h)(2)). The bill provides that business expenses for attending a convention, seminar, or similar meeting on a cruise of a domestic cruise ship will be deductible to the same extent as other business expenses (rather than being subject to disallowance under sec. 274(h)), if certain reporting requirements are satisfied and if all ports of call of the cruise are located within the United States and certain other countries ("the North American area"). The bill will apply to cruise ship seminars and meetings beginning after December 31, 1982.

II. EXPLANATION OF THE BILL

Present Law

In General

A deduction is allowed for the ordinary and necessary expenses of carrying on a trade or business or income-producing activity, including transportation expenses and amounts for meals and lodging while away from home in pursuit of a trade or business or income-producing activity. Only such traveling expenses as are reasonable and necessary in the conduct of the taxpayer's business and directly attributable to it may be deducted. Fees charged for admission to a convention or other meeting are generally deductible if there is a sufficient relationship between the taxpayer's trade or business or income-producing activity and attendance at the convention or other meeting. Therefore, generally, a deduction is allowed for the costs of attending a convention or seminar in pursuit of a trade or business or income-producing activity.

Special rules (Code sec. 274(h)) apply to expenses for attendance at conventions, seminars, or similar meetings if held outside the United States, its possessions, Canada, Mexico, or the Trust Territory of the Pacific Islands (the "North American area")¹ or if held on a cruise ship. (Conventions, etc. held outside the North American area are commonly referred to as "foreign conventions".) These rules apply both to the expenses paid by individuals attending such conventions and to expenses paid by employers of such individuals.

No deduction is allowed for the expenses of attending a foreign convention unless the taxpayer establishes that the cost is directly related to the active conduct of a trade or business or income-producing activity and that it is as reasonable to hold the meeting outside the North American area as within it (sec. 274(h)(1)). No deduction is allowed for the expenses of attending any convention held on a cruise ship, including a U.S.-registered cruise ship (sec. 274(h)(2)).

Background of present law

Special rules for foreign conventions were first enacted in 1976 because of the proliferation of foreign conventions, seminars, and

¹ Under the United States-Jamaican income tax treaty, deductions are permitted for certain expenses of attending a convention in Jamaica (Art. 25(7)).

cruises that were ostensibly held for business or educational purposes, but which appeared to the Congress to be vacations in disguise. Under pre-1976 law, the allowance of deductions for such trips (as for domestic conventions) depended on a subjective determination of the taxpayer's principal purpose in making the trip. This had proved to be a difficult standard for the Internal Revenue Service to apply, particularly in the case of overseas trips.

Under the foreign convention rules as initially enacted in 1976, deductions could be taken for no more than two foreign conventions per year, and were limited to certain transportation and subsistence expenses. Under the 1976 rules, the taxpayer deducting the expenses of attending a foreign convention also had to comply with certain special reporting requirements. For example, the taxpayer had to attach to the income tax return information to indicate the total days of the trip (exclusive of the transportation days to and from the convention), the number of hours of each day devoted to business activities (in a brochure describing the convention, if available), and any other information required by regulations. In addition, the taxpayer had to attach to the income tax return a statement, signed by an appropriate officer of the sponsoring organization, which included a schedule of the business activities of each convention day, the number of hours that the individual attended these activities each day, and any other information required by regulations.

The 1976 rules seemed to be unsatisfactory because those rules in some cases operated to disallow legitimate business travel expenses, but in other cases failed to disallow deductions for trips which actually were foreign vacations (S. Rpt. No. 96-1031, 96th Cong., 2d Sess. 12 (1980)). Accordingly, the Congress revised the rules in 1980 (P.L. 96-608).

The present rule was intended to focus on the reason why a foreign site was selected for the convention or meeting. The disallowance of deductions for expenses of attending conventions on cruise ships was justified on the ground that the personal benefits of going on a cruise often predominate over business purposes. Therefore, it was argued, disallowing deductions for such expenses avoids disputes on audit and prevents taxpayers from claiming deductions that would not be upheld by a court. On the other hand, it was argued that denying deductions for conventions held on all cruise ships (even U.S. flag ships) would disadvantage the U.S. cruise ship industry.

In P.L. 96-608, Congress also repealed the special reporting requirements.

Reasons for Change

The committee believes that the current automatic disallowance of all deductions for cruise ship conventions is overly broad. Since misuse of deductions for convention expenses may occur when a convention is held on land (for example, at a vacation resort, or near a casino or beach) as well as when held on a cruise ship, there is no persuasive justification for singling out U.S. cruise ship conventions for a flat disallowance rule. The current automatic disallowance rule works to the detriment of the U.S. cruise ship industry, without any particular justification for such treatment. The committees believe

that permitting such a deduction for conventions on domestic cruise ships will help that industry and provide jobs for U.S. persons on those ships. The committee believes that enactment of strict reporting requirements to prevent deduction misuse and limitation of cruises to the North American area provide a more appropriate method of treating U.S. cruise ship expenses than the present flat disallowance.

Explanation of Provisions

Under the bill, the expenses of attending a convention, seminar, or similar meeting held on a cruise ship will continue to be disallowed as deductions unless three conditions are met: (1) the cruise ship must be documented under U.S. law, (2) the taxpayer must establish, by satisfying certain reporting and other requirements, that the cruise ship meeting is directly related to the active conduct of the taxpayer's trade or business or to an income-producing activity, and (3) all the ports of call of the cruise must be within the North American area as defined in the Code (the United States, its possessions, the Trust Territory of the Pacific Islands, Canada, and Mexico). A country with which the United States has an income tax treaty that gives a U.S. person a deduction for a business convention held within it is not within the North American area unless the Code so provides. If all these requirements are met, the expenses for attending such a meeting will be deductible to the same extent as expenses of attending a domestic convention held on land.

Under the bill, the taxpayer claiming the cruise ship convention deduction and an officer of the sponsoring organization must sign statements establishing the direct relation of the convention to the taxpayer's business or income-seeking purpose. The bill expressly authorizes the Secretary of the Treasury to prescribe, by regulations, additional requirements which the taxpayer must satisfy in order to establish a direct relationship between the cruise ship meeting and the taxpayer's business or income-producing activities. Such regulations may (but will not necessarily) require information previously required by the 1976 statute described above. The regulations may provide, for example, that the statutory test will not be met unless the required statements are attached by the taxpayer to the taxpayer's return.

Under the bill, as under present law, no deduction is allowed for expenses of attending a convention, seminar, or other meeting held on a cruise ship which is not a U.S.-registered cruise ship. Moreover, no deduction is allowed for expenses of attending a convention or similar meeting held on a cruise ship during a cruise that calls on a port outside the North American area as defined in the Code (sec. 274(h)(3)(A)).

Effective Date

The amendments made by the bill will apply to conventions, seminars, and meetings beginning after December 31, 1982.

III. EFFECT OF THE BILL ON THE BUDGET AND VOTE OF THE COMMITTEE IN REPORTING THE BILL

Budget Effects

In compliance with clause 7 of Rule XIII of the Rules of the House of Representatives, the following statement is made about the effect on the budget of this bill, H.R. 3191, as amended. The committee estimates that the provisions contained in the bill, H.R. 3191, as amended, will have a negligible effect on budget receipts.

The Treasury Department agrees with this statement.

Vote of the Committee

In compliance with clause 2(1) (2) (B) of Rule XI of the Rules of the House of Representatives, the following statement is made about the vote of the committee on the motion to report the bill, as amended. The bill, H.R. 3191, as amended, was ordered favorably reported by division vote of 12 to 5.

IV. OTHER MATTERS TO BE DISCUSSED UNDER HOUSE RULES

In compliance with clauses 3(1) (3) and 2(1) (4) of Rule XI of the Rules of the House of Representatives, the following statements are made with respect to the committee action on H.R. 3191, as amended.

Oversight Findings

With respect to subdivision (A) of clause 2(1) (3) (relating to oversight findings), the committee advises that it was as a result of the committee's oversight activities with respect to application of the rules of the Internal Revenue Code relating to deductions for conventions, seminars, and other meetings that the committee concluded that it is appropriate to enact the provisions contained in the bill.

On March 16, 1982, the Subcommittee on Select Revenue Measures of the Committee on Ways and Means held a hearing on H.R. 3191. On July 12, 1982, that Subcommittee, by voice vote, ordered H.R. 3191 favorably reported to the full committee, with amendments. The Subcommittee transmitted a report to the full committee on September 10, 1982.

New Budget Authority and Tax Expenditures

With respect to subdivision (B) of clause 2(1) (3), after consultation with the Director of the Congressional Budget Office, the committee states that the changes made to existing law by this bill involve no new budget authority or new or increased tax expenditures.

Consultation with Congressional Budget Officials on Budget Estimates

With respect to subdivision (C) of clause 2(1) (3), the committee advises that the Director of the Congressional Budget Office has examined the committee's budget estimates (as indicated in part III of this report) and submitted the following statement:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C.

HON. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with the Budget Act, the Congressional Budget Office has examined H.R. 3191, Tax Deductions for Conventions on Domestic Cruise Ships. This bill provides that business expenses for attending a convention, seminar, or similar meeting on a cruise of a domestic cruise ship will be deductible.

This bill does not provide any new budget authority or any new or increased tax expenditures.

In accordance with Section 403 of the Budget Act, the Congressional Budget Office estimates that the bill will have negligible effect on budget receipts.

Sincerely,

RAYMOND C. SCHEPPACH
(For Alice M. Rivlin, Director).

Oversight by Committee on Government Operations

With respect to subdivision (D) of clause 2(1)(3), the committee advises that no oversight findings or recommendations have been submitted to the committee by the Committee on Government Operations regarding the subject matter of this bill.

Inflationary Impact

In compliance with clause 2(1)(4), the committee states that the enactment of this bill is not expected to have an inflationary impact on prices and costs in the operation of the national economy.

V. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

**SECTION 274 OF THE INTERNAL REVENUE CODE
OF 1954**

SEC. 274. DISALLOWANCE OF CERTAIN ENTERTAINMENT, ETC., EXPENSES

(a) ENTERTAINMENT, AMUSEMENT, OR RECREATION.—* * *

* * * * *

(h) ATTENDANCE AT CONVENTIONS, ETC.—

(1) IN GENERAL.—In the case of any individual who attends a convention, seminar, or similar meeting which is held outside the

North American area, no deduction shall be allowed under section 162 or 212 for expenses allocable to such meeting unless the taxpayer establishes that the meeting is directly related to the active conduct of his trade or business or to an activity described in section 212 and that, after taking into account in the manner provided by regulations prescribed by the Secretary—

(A) the purpose of such meeting and the activities taking place at such meeting,

(B) the purposes and activities of the sponsoring organizations or groups,

(C) the residences of the active members of the sponsoring organization and the places at which other meetings of the sponsoring organization or groups have been held or will be held, and

(D) such other relevant factors as the taxpayer may present,

it is as reasonable for the meeting to be held outside the North American area as within the North American area.

[(2) CONVENTIONS ON CRUISE SHIPS.—In the case of any individual who attends a convention, seminar, or other meeting which is held on any cruise ship, no deduction shall be allowed under section 162 or 212 for expenses allocable to such meeting.]

(2) CONVENTIONS ON CRUISE SHIPS.—*In the case of any individual who attends a convention, seminar, or other meeting which is held on any cruise ship, no deduction shall be allowed under section 162 or 212 for expenses allocable to such meeting unless—*

(A) *the cruise ship is a vessel documented under the laws of the United States,*

(B) *all ports of call of the cruise are inside the North American area, and*

(C) *the taxpayer establishes (by written statements signed by the taxpayer and by an officer of the sponsoring organization or group, and by such other methods as may be prescribed by regulations) that the meeting is directly related to the active conduct of his trade or business or to an activity described in section 212.*

Paragraph (1) shall not apply to any meeting with respect to which the requirements of the preceding sentence are met.

(3) DEFINITIONS.—For purposes of this subsection—

(A) NORTH AMERICAN AREA.—The term “North American area” means the United States, its possessions, and the Trust Territory of the Pacific Islands, and Canada and Mexico.

(B) CRUISE SHIP.—The term “cruise ship” means any vessel sailing within or without the territorial waters of the United States.

(4) SUBSECTION TO APPLY TO EMPLOYER AS WELL AS TO TRAVELER.—

(A) Except as provided in subparagraph (B), this subsection shall apply to deductions otherwise allowable under section 162 or 212 to any person, whether or not such person is the individual attending the convention, seminar, or similar meeting.

(B) This subsection shall not deny a deduction to any person other than the individual attending the convention, seminar, or similar meeting with respect to any amount paid by such person to or on behalf of such individual if includible in the gross income of such individual. The preceding sentence shall not apply if the amount is required to be included in any information return filed by such person under part III of subchapter A of chapter 61 and is not so included.

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